

ANALYSIS OF ORIGINAL BILL

Author: Ackerman Analyst: Paul Brainin Bill Number: AB 1694

Related Bills: none Telephone: 845-3380 Introduced Date: 01-26-98

Attorney: Doug Bramhall Sponsor: Franchise Tax Board

SUBJECT: Partnerships and Limited Liability Companies Return Due Dates

SUMMARY

This bill would amend the Revenue and Taxation Code (R&TC) to establish the due date of the returns for partnerships and limited liability companies (LLCs) as on or before the 15th day of the fourth month following the close of their taxable or income year.

EFFECTIVE DATE

This bill would be effective January 1, 1999.

SPECIFIC FINDINGS

Under **federal and state laws**, a partnership is an entity in which two or more persons join together to carry on a trade or business in which each contributes money, property, labor or special skills and each expects to share in the profits and losses from the business activity. A joint undertaking merely to share expenses is not a partnership. A partnership may be a syndicate, group, pool, joint venture or other unincorporated organization.

Federal and state laws provide rules for the taxation of partnerships and partners. Partnership types include general partnerships, limited partnerships, and limited liability partnerships (LLPs). Partnerships are taxed under the Personal Income Tax Law (PITL).

Under **state law**, a LLC is an entity that can be created which combines traditional corporate and partnership characteristics and resembles forms of limited liability organizations that have been well known and widely used in Europe and South America.

A LLC is classified as a partnership or as an association taxable as a corporation; therefore, they may be taxed under the PITL or the Bank and Corporation Tax Law (B&CTL).

DEPARTMENTS THAT MAY BE AFFECTED:

___ STATE MANDATE

___ GOVERNOR'S APPOINTMENT

Department Director Position:

☒ S ☐ O
☐ SA ☐ OUA
☐ N ☐ NP
☐ NA ☐ NAR
☐ PENDING

Agency Secretary Position:

☐ S ☐ O
☐ SA ☐ OUA
☐ N ☐ NP
☐ NA ☐ NAR
DEFER TO ___

GOVERNOR'S OFFICE USE

Position Approved ___
Position Disapproved ___
Position Noted ___

Department Director

Gerald H. Goldberg

2/23/98

Agency Secretary

Date

By:

Date:

Federal tax law cites the due date of returns as the 15th day of the appropriate month following the close of the taxable year for persons, corporations, trusts, partnerships, exempt organizations, and cooperative associations.

Existing state law requires partnerships (including general, limited, and limited liability partnerships) and limited liability companies (LLCs) taxable as partnerships to file returns and pay appropriate taxes within three months and 15 days after the close of their taxable year.

The taxable year of a partnership or LLC taxable as a partnership may end at some time other than the end of the month when the existence of the entity is terminated, requiring a "short period" return to be filed. A literal reading of the Revenue and Taxation Code (R&TC) would establish a due date for the final return of that entity as a day of the month other than the 15th. The final return for a partnership or LLC may be filed on the wrong date because taxpayers are accustomed to filing on the 15th and may not realize that the short period return would have a different due date.

This bill would make a technical change to the R&TC to establish the due date of the returns of partnerships and LLCs as on or before the 15th day of the fourth month following the close of their taxable or income year rather than within three months and 15 days after the close of their taxable or income year.

Policy Consideration

The R&TC establishes the due date of returns for corporations with short periods as the 15th day of the third month following the close of the income year. This bill would assist taxpayers by establishing consistency for short period returns.

Implementation Considerations

There would be no implementation concerns. This department's processing system already uses the fifteenth day of a month as the due date for returns.

FISCAL IMPACT

Departmental Costs

There would be no costs associated with this bill.

Tax Revenue Estimate

This bill would not impact state income tax revenue.

POSITION

Support.

The Franchise Tax Board voted to support this language in its meeting on November 17, 1997.